

CS FOR SENATE BILL NO. 53(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - THIRD SPECIAL SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 9/1/21

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to use of income of the Alaska permanent fund; relating to the amount**
2 **of the permanent fund dividend; relating to the duties of the commissioner of revenue;**
3 **and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE INTENT. It is the intent of the legislature to

8 (1) implement the recommendations of the 2021 Comprehensive Fiscal Plan
9 Working Group;

10 (2) harmonize the calculation under AS 37.13.140(a) of net income available
11 for distribution and net income available for appropriation under AS 37.13.140(b);

12 (3) temporarily change the mechanism used to draw money from the earnings
13 reserve account to leverage the unprecedented earnings currently available in the account, so
14 that the legislature has adequate time to debate, analyze, and implement the revenue measures

1 and cost reductions required for the long-term financial stability of the state;

2 (4) reverse the changes made by this Act if the recommendations of the 2021
3 Comprehensive Fiscal Plan Working Group are not adopted and implemented in their entirety.

4 * **Sec. 2.** AS 37.13.140 is amended to read:

5 **Sec. 37.13.140. Income.** (a) [NET INCOME OF THE FUND INCLUDES
6 INCOME OF THE EARNINGS RESERVE ACCOUNT ESTABLISHED UNDER
7 AS 37.13.145.] Net income of the fund shall be computed annually as of the last day
8 of the fiscal year in accordance with generally accepted accounting principles,
9 excluding any unrealized gains or losses. [INCOME AVAILABLE FOR
10 DISTRIBUTION EQUALS 21 PERCENT OF THE NET INCOME OF THE FUND
11 FOR THE LAST FIVE FISCAL YEARS, INCLUDING THE FISCAL YEAR JUST
12 ENDED, BUT MAY NOT EXCEED NET INCOME OF THE FUND FOR THE
13 FISCAL YEAR JUST ENDED PLUS THE BALANCE IN THE EARNINGS
14 RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

15 (b) The corporation shall determine the amount available for appropriation
16 each year. The amount available for appropriation is five percent of the average
17 market value of the fund for the first five of the preceding six fiscal years, including
18 the fiscal year just ended, computed annually for each fiscal year in accordance with
19 generally accepted accounting principles. In this subsection, "average market value of
20 the fund" includes the balance of the earnings reserve account established under
21 AS 37.13.145, but does not include that portion of the principal attributed to the
22 settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First
23 Judicial District). **The amount available for appropriation may not exceed the**
24 **balance in the earnings reserve account described in AS 37.13.145.**

25 * **Sec. 3.** AS 37.13.140, as amended by sec. 2 of this Act, is amended to read:

26 **Sec. 37.13.140. Income.** (a) **Net income of the fund includes income of the**
27 **earnings reserve account established under AS 37.13.145.** Net income of the fund
28 shall be computed annually as of the last day of the fiscal year in accordance with
29 generally accepted accounting principles, excluding any unrealized gains or losses.
30 **Income available for distribution equals 21 percent of the net income of the fund**
31 **for the last five fiscal years, including the fiscal year just ended, but may not**

exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District). [THE AMOUNT AVAILABLE FOR APPROPRIATION MAY NOT EXCEED THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

* **Sec. 4.** AS 37.13.145(b) is amended to read:

(b) **Each** [AT THE END OF EACH] fiscal year, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the

(1) dividend fund established under AS 43.23.045, **not less than** 50 percent of the **amount** [INCOME] available for **appropriation** [DISTRIBUTION] under **AS 37.13.140(b); and**

(2) general fund, up to 50 percent of the amount available for appropriation under AS 37.13.140(b) [AS 37.13.140].

* **Sec. 5.** AS 37.13.145(b), as amended by sec. 4 of this Act, is amended to read:

(b) **At the end of each** [EACH] fiscal year, the **corporation shall transfer** [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the

[(1)] dividend fund established under AS 43.23.045, **[NOT LESS THAN]** 50 percent of the **income** [AMOUNT] available for **distribution** [APPROPRIATION] under **AS 37.13.140** [AS 37.13.140(b); AND

(2) GENERAL FUND, UP TO 50 PERCENT OF THE AMOUNT AVAILABLE FOR APPROPRIATION UNDER AS 37.13.140(b)].

* **Sec. 6.** AS 37.13.145(c) is amended to read:

(c) After the **appropriations** [TRANSFER] under (b) [AND AN APPROPRIATION UNDER (e)] of this section, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on the principal of the fund during that fiscal year. However, none of the amount transferred shall be applied to increase the value of that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 7.** AS 37.13.145(c), as amended by sec. 6 of this Act, is amended to read:

(c) After the **transfer** [APPROPRIATIONS] under (b) **and an appropriation under (g)** of this section, the **corporation shall transfer** [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on the principal of the fund during that fiscal year. However, none of the amount transferred shall be applied to increase the value of that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 8.** AS 37.13.145(d) is amended to read:

(d) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for appropriation [DISTRIBUTION] to the dividend fund under AS 37.13.140(b) or [, FOR TRANSFERS] to the principal under (c) of this section [, OR FOR AN APPROPRIATION UNDER (e) OF THIS SECTION,] and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 9.** AS 37.13.145(d), as amended by sec. 8 of this Act, is amended to read:

(d) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution [APPROPRIATION] to the dividend fund, for transfers [UNDER AS 37.13.140(b) OR] to the principal under (c) of this section, or for an appropriation under (g) of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 10.** AS 37.13.145 is amended by adding new subsections to read:

(g) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

(h) The combined total of the transfer under (b) of this section and an

1 appropriation under (g) of this section may not exceed the amount available for
2 appropriation under AS 37.13.140(b).

3 * **Sec. 11.** AS 37.13.300(c) is amended to read:

4 (c) Net income from the mental health trust fund may not be included in the
5 computation of the amount [NET INCOME OR MARKET VALUE] available for
6 [DISTRIBUTION OR] appropriation under **AS 37.13.140(b)** [AS 37.13.140].

7 * **Sec. 12.** AS 37.13.300(c), as amended by sec. 11 of this Act, is amended to read:

8 (c) Net income from the mental health trust fund may not be included in the
9 computation of net income or market value [THE AMOUNT] available for
10 **distribution or** appropriation under **AS 37.13.140** [AS 37.13.140(b)].

11 * **Sec. 13.** AS 37.14.031(c) is amended to read:

12 (c) The net income of the fund shall be determined by the Alaska Permanent
13 Fund Corporation **and shall be computed annually as of the last day of the fiscal**
14 **year in accordance with generally accepted accounting principles, excluding any**
15 **unrealized gains or losses** [IN THE SAME MANNER THE CORPORATION
16 DETERMINES THE NET INCOME OF THE ALASKA PERMANENT FUND
17 UNDER AS 37.13.140].

18 * **Sec. 14.** AS 37.14.031(c), as amended by sec. 13 of this Act, is amended to read:

19 (c) The net income of the fund shall be determined by the Alaska Permanent
20 Fund Corporation **in the same manner the corporation determines the net income**
21 **of the Alaska permanent fund under AS 37.13.140** [AND SHALL BE
22 COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR IN
23 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES,
24 EXCLUDING ANY UNREALIZED GAINS OR LOSSES].

25 * **Sec. 15.** AS 43.23.025(a) is amended to read:

26 (a) By October 1 of each year, the commissioner shall determine the value of
27 each permanent fund dividend for that year by

28 (1) determining the total amount available for dividend payments,
29 which equals

30 (A) the amount **appropriated** [OF INCOME OF THE
31 ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund

1 under AS 37.13.145(b) during the current year;

2 (B) plus the unexpended and unobligated balances of prior
3 fiscal year appropriations that lapse into the dividend fund under
4 AS 43.23.045(d);

5 (C) less the amount necessary to pay prior year dividends from
6 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
7 43.23.055(3) and (7);

8 (D) less the amount necessary to pay dividends from the
9 dividend fund due to eligible applicants who, as determined by the department,
10 filed for a previous year's dividend by the filing deadline but who were not
11 included in a previous year's dividend computation;

12 (E) less appropriations from the dividend fund during the
13 current year, including amounts to pay costs of administering the dividend
14 program and the hold harmless provisions of AS 43.23.240;

15 (2) determining the number of individuals eligible to receive a
16 dividend payment for the current year and the number of estates and successors
17 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

18 (3) dividing the amount determined under (1) of this subsection by the
19 amount determined under (2) of this subsection.

20 * **Sec. 16.** AS 43.23.025(a), as amended by sec. 15 of this Act, is amended to read:

21 (a) By October 1 of each year, the commissioner shall determine the value of
22 each permanent fund dividend for that year by

23 (1) determining the total amount available for dividend payments,
24 which equals

25 (A) the amount **of income of the Alaska permanent fund**
26 **transferred** [APPROPRIATED] to the dividend fund under AS 37.13.145(b)
27 during the current year;

28 (B) plus the unexpended and unobligated balances of prior
29 fiscal year appropriations that lapse into the dividend fund under
30 AS 43.23.045(d);

31 (C) less the amount necessary to pay prior year dividends from

the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.240;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

* **Sec. 17.** AS 37.13.145(e) and 37.13.145(f) are repealed.

* **Sec. 18.** The uncoded law of the State of Alaska is amended by adding a new section to read:

USE OF THE EARNINGS RESERVE ACCOUNT. For the fiscal years ending June 30, 2022, and June 30, 2023, in addition to the amount available for appropriation calculated under AS 37.13.140(b), the legislature may appropriate from the earnings reserve account to the general fund an additional 1.5 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this section, "average market value of the fund" has the meaning given in AS 37.13.140(b).

* **Sec. 19.** The uncoded law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. (a) Sections 3, 5, 7, 9, 10, 12, 14, and 16 of this Act take effect only if, by November 30, 2022,

(1) the voters have not approved a resolution that appears on a statewide election ballot that amends the Constitution of the State of Alaska to

1 (A) specify that the amount that may be appropriated from the Alaska
 2 permanent fund is a draw based on the average fiscal-year-end market value of the
 3 permanent fund and that half of the amount of the draw shall be used for permanent
 4 fund dividends; and

5 (B) require deposit of the unencumbered balance of the earnings
 6 reserve account established under AS 37.13.145 into the Alaska permanent fund to
 7 become part of the principal of the fund; or

8 (2) revenue laws anticipated to generate at least an estimated \$160,000,000 of
 9 new revenue each year have not been passed by the Thirty-Second Alaska State Legislature
 10 and enacted into law.

11 (b) The commissioner of revenue shall notify the revisor of statutes if, before
 12 November 30, 2022, revenue laws anticipated to generate at least an estimated \$160,000,000
 13 of new revenue each year have not been passed by the Thirty-Second Alaska State Legislature
 14 and enacted into law.

15 * **Sec. 20.** If, under sec. 19 of this Act, secs. 3, 5, 7, 9, 10, 12, 14, and 16 of this Act take
 16 effect, they take effect July 1, 2023.

17 * **Sec. 21.** Except as provided in sec. 20 of this Act, this Act takes effect immediately under
 18 AS 01.10.070(c).